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22879 7590 08/08/2008 HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400				
EXAMINER				
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/716,605  
Filing Date: November 20, 2003  
Appellant(s): KNEES ET AL.

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Shawn B. Cage  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 5/28/2008 appealing from the Office action mailed 12/28/2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

20030043820	Goringe et al.	3-2003
5850397	Raab et al.	12-1998

Infoplease.com. "set,  
in mathematics: Definition of  
Sets -- Infoplease.com"  
Retrieved 7/30/2008 from  
"http://www.infoplease.com/  
ce6/sci/A0861027.html".

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Raab et al. (US 5850397), hereafter Raab.

Regarding **claims 1, 8 and 11**, Raab discloses:

dividing the network into zones of network devices; (Raab divides the network into "spheres" which are zones. (Abstract))

in a first zone of the network, identifying devices in the zone that have SNMP(Simple Network Management Protocol) access; (Raab identifies at least one SNMP-aware agent for each sphere, step 404)

collecting data from the identified devices; (step 408)

stitching the collected data into a topology of the network.(step 412, and Col. 15 lines 5-6 "The Global Topology Agent combines all media-specific topologies and presents one topology map." This is equivalent to 'stitching'.)

Regarding **claims 2, 10 and 12 as applied to claims 1, 8 and 11**, Raab discloses:

repeating the steps of identifying, collecting and stitching for each zone in the network. (Step 410 repeats the process until all spheres are resolved.)

Regarding **claims 3, and 13, as applied to claims 1 and 11**, Raab discloses: dispatching identified devices in the zone to agents; and collecting the data from the identified devices via the agents using the SNMP access. (the identified devices in each sphere are inherently assigned to a snmp agent from which the global agent retrieves topology data from. See Col. 6, as well as the definitions in col. 10 describing various SNMP agents that are available to handle individual devices.)

Regarding **claims 4 and 14 as applied to claims 1, 3, and 11**, Raab discloses: caching the collected data; and downloading the topology into a database. (the collected data is inherently cached as it is not possible to detect a change in topology without having the previous configuration.)

Regarding **claims 5 and 15 and as applied to claims 1 and 11**, Raab discloses:

a first module receiving a list of managed nodes in the network and publishing the list of managed nodes to a first file; (it is inherent that the list of nodes is a file; a list of nodes is generated during sphere determination as disclosed in Col. 6)

a second module reading the first file and inserting data from the first file into a returns portion of a first database invoking a third module upon each insertion of data from the first file into the returns portion of the first database, which inserts data from the returns portion of the first database into a processing portion of the first database; (Col. 6 discloses two "sets" or databases, one for discovered and unprocessed networks, and one for processed networks.)

invoking a fourth module upon each insertion of data into the processing portion of the first database, the fourth module identifying nodes corresponding to the inserted data to a dispatch portion of a second database; and (Col. 6 lines 39-56)

a details agent obtaining node identifications from the dispatch portion of the second database, performing queries to the nodes corresponding to the node identifications, and inserting information received in response to the queries into a returns portion of the second database. (Col. 6 lines 48-61)

Regarding **claims 6 and 16 and as applied to claims 1, 5, 11 and 15**, Raab discloses:

invoking a fifth module, which accesses the returns portion of the second database, computes a list of the zones, and dispatches valid nodes in the first zone to active agents via a dispatch portion of a third database; the agents collecting data from the valid nodes and returning the collected data to a returns portion of the third

database. (Col. 11, lines 30-56 describe how a particular node is assigned to a particular sphere agent (i.e. a dispatch portion of a third database))

Regarding **claims 7 and 17 and as applied to claims 1, 5-6, 11, and 15-16**, Raab discloses:

invoking a sixth module, which causes the collected data in the returns portion of the third database to be processed into discovery topology data of the network and then downloaded; invoking a seventh module, which clears the dispatch and returns portions of the third database and refreshes topology and layer databases and signals that topological analysis with respect to the zone has been completed. (It is disclosed that after a sphere is completed its information is removed from the set of spheres that need to be determined (Col. 9), and after the spheres are determined, the topology determination and aggregation described in columns 9 and 10 take place.)

Regarding **claim 9, and as applied to claim 10**, Raab discloses:  
a Graphical User Interface; and the system comprises means for caching data. (the collected data is inherently cached as it is not possible to detect a change in topology without having the previous configuration.)

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 8, and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Goringe et al (US 2003/0043820), hereafter Goringe.

Regarding **claims 1, 8 and 11**, Raab discloses:

dividing the network into zones of network devices; (Goringe discloses dividing a network into regions ([0009] lines 2-3)

in a first zone of the network, identifying devices in the zone that have SNMP([0049] discloses identifying if the device being evaluated is capable of SNMP (i.e. there is not a SNMP error. See lines 11-12.))

collecting data from the identified devices; (If the device successfully supports SNMP collects information from the device, [0049] lines 12-19)

stitching the collected data into a topology of the network.(lines 9-11 of the abstract) as well as [0070] describes how a list is created (i.e. 'stitched' together) from the data of all the network devices in the network.)

#### **(10) Response to Argument**

##### **A. Claims 1, 8, 11**

###### **I. Raab**

Appellant argues that Raab does not disclose identifying devices in a first zone that have snmp access through a set of queries. (Brief, pp. 4-6)The Examiner disagrees, first, the Examiner is interpreting "a set of queries" to mean "one or more query". This interpretation does not run contrary to the broadest reasonable interpretation of the word "set". Also note the definition of set as provided by the evidentiary reference from infoplease.com that a set may have zero to infinite elements.



Further, it is not limited to more than one query being sent to a single node, merely that multiple nodes are queried, which would require 'a set of queries'. The system of Raab must determine an SNMP-aware sphere agent for each node, therefore, is identifying a device on the network that is SNMP enabled through a query, by this rationale, the rejection should be maintained.

## **II. Goringe**

Appellant also argues that Goringe does not disclose identifying devices in a zone that have SNMP. (Brief, pp. 8-9) However, as stated in the rejections of record, paragraph 49 of Goringe discloses using queries to determine if a device is SNMP capable or not, thus identifying devices that are SNMP capable. The fact that Appellant's disclosure and the disclosure of Goringe differ does not change that Goringe, in paragraph 49 discloses the use of queries to determine SNMP aware devices in a zone, by this rationale, the rejection should be maintained.

## **B. Claims 3 and 13**

Appellant argues that Raab does not disclose dispatching the identified devices to agents. (Brief, pp. 6-7) The Examiner notes that each sphere agent (i.e. the identified devices) are dispatched to the global sphere agent. Further, in Col. 5, lines 58-62, it is noted that each 'addressable agent' is configured to provide information to each sphere agent. Additionally, in Col. 5, lines 43-46, it is stated that information about the topology is transmitted using SNMP. One of ordinary skill in the art would clearly understand from the disclosure of Raab that the identified devices are dispatched to agents and therefore the rejection should be maintained.

**C. Claims 5 and 15**

Appellant argues that Raab does not disclose the third module. (Brief, pg. 7) The Examiner disagrees. The third module, which inserts data from a 'returns portion' of the first database into a 'processing' portion of the first database. The Examiner notes that in Raab, there are two sets (see Col. 6) and that as networks are processed and discovered they are moved from one set (i.e. portion of a database) to another, by this rationale, the rejection should be maintained.

**D. Claims 7 and 17**

Appellant argues that Raab does not disclose the seventh module. The Examiner disagrees. (pg. 7) The seventh module, which 'clears' the dispatch and returns portions of the third database and refreshes topology and layer databases and signals that the topological analysis with respect to the zone has been completed can be found in Cols. 9-10 of Raab. Once the determination is made that SET1 is empty (i.e. the dispatch is cleared), step 216 takes place where the sphere determinations are completed, thus the topology and layer databases (i.e. SET2) are updated by the removed information from SET1, by this rationale, the rejection should be maintained.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/MEK/ 7/29/2008

Art Unit: 2154

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